

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUIS DEJESUS,

Plaintiff,

against

Dkt No. 22-CV-8456

FIRST AMENDED
COMPLAINT

SERGEANT CARLOS HILLS (SHIELD NO. 00446),
and JOHN/JANE DOE 1-10 (the names being fictitious
as their identities are unknown),

Defendants.
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NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.
3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).
4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

JURY DEMAND

5. Plaintiff demands a trial by jury in this action.

PARTIES

6. Plaintiff Luis Dejesus ("Mr. Dejesus" or "Plaintiff") is an Hispanic male resident of Bronx County in the City and State of New York.
7. The City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police

officers and supervisory police officers, including the individually named Defendants herein.

8. Defendant Sergeant Carlos Hills, shield number 446 (“Defendant Hills”), at all times relevant herein, was a sergeant, employee and agent of the NYPD. Defendant Hills is sued in his individual and official capacities.
9. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.
10. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.
11. At all times relevant herein, all individual defendants (collectively “Defendants”) were acting under color of state law.

STATEMENT OF FACTS

12. On September 26, 2020, at approximately 8:45 p.m., Mr. Dejesus was standing on the sidewalk with his girlfriend in the vicinity of West 10th Street and Hudson Street, New York, New York.
13. Neither Mr. Dejesus nor his girlfriend were committing any crimes.
14. Mr. Dejesus and his girlfriend began crossing the street in the crosswalk, obeying all traffic signals.
15. While in the crosswalk, John Doe 1, an NYPD lieutenant, pointed at Mr. Dejesus and his girlfriend and said “Get them.”
16. Mr. Dejesus felt Defendant Hills John/Jane Doe 2 grab him from behind and throw to the ground.
17. Mr. Dejesus was on the ground complying, but Defendant Hills and John/Jane Doe 2-10 were kicking, punching, and hitting Mr. Dejesus, including putting a knee on the back of his neck causing Mr. Dejesus to have trouble breathing.

FIRST CLAIM **Excessive Force** **(All Defendants)**

18. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

19. The Individual Defendants have deprived Plaintiff of his civil, constitutional and statutory rights under color of law and are liable to Plaintiff under 42 USC 1983.
20. The Individual Defendants have deprived Plaintiff of his right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, in that the Individual Defendants used excessive and unreasonable force in effecting the arrest of Plaintiff.
21. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

SECOND CLAIM
Failure to Intervene
(All Defendants)

22. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.
23. Those Individual Defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.
24. Accordingly, the Individual Defendants who failed to intervene violated the Fourth and Fourteenth Amendments.
25. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

- (a) Compensatory damages against all Defendants, jointly and severally;
- (b) Punitive damages against the Individual Defendants, jointly and severally;

(c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and

(d) Such other and further relief as this Court deems just and proper.

Dated: January 16, 2023

New York, New York

BRUSTEIN LAW, PLLC

/s/

Evan Brustein
299 Broadway, 17th Floor
New York, NY 10007
(212) 233-3900

Attorneys for Plaintiff